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Glenn Ballman

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EXAMINER

GREGG, MARY M

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3694

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/604,762	Applicant(s) BALLMAN, GLENN	
	Examiner MARY GREGG	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The following is a Final Office action in response to communications received March 27, 2008. Claims 1-21 have been canceled. Claims 22-29 have been added. Therefore, claims 22-29 are pending and addressed below.

Response to Amendment

Applicant canceled all claims rejected under 35 USC 112, second paragraph, 35 USC 110, 35 USC 102(b) and 35 USC 103(a). There are no rejections outstanding.

Oath/Declaration

S-signature is a signature inserted between forward slash marks, but not handwritten as defined by 37 CFR 1.4 (d) (1). Applicant's EFS signature is not in compliance with EFS signature submission rules (See MPEP 609.07 and 37 CFR 1.4 (d)(3) and (4)). Declaration 37 CFR 1.63 does not possess the signature of the inventor. (MPEP 602). Appropriate correction is required

Claim Objections

In reference to Claim 26:

Claim 26 is objected to because of the following informalities: Claim 26 cite the language "to through", which is not grammatical content. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In reference to Claim 22:

Claim 22 cites the limitations “broker house identifier” and “broker identifier”, however the limitations set forth has not been disclosed or defined in either the original specification or the original drawings. The applicant must have had possession of the subject matter of the amendment at the time of the filing of the application. The limitation subject matter of the claim has not been supported in the application as filed and is therefore rejected under 35 USC 112, first paragraph.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In reference to Claim 22:

Claim 22 recites the limitations "securities", "short selling of securities", "actual rights holder", "broker house identifier" and "modification of trade data" in line 2 with respect to the limitation “securities”, in lines 2 and 3 with respect to the limitation “short selling of securities”, in lines 3 and 4 with respect to the limitation “actual rights holder”,

Art Unit: 3694

in line 4 with respect to the limitation "broker house identifier" and in lines 4 and 5 with respect to the limitation "modification of trade data". There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation "securities" to represent any type of investment instrument. For examination purposes the examiner is defining the limitation "short selling of securities" to be the common definition (i.e. a transaction made by a person who believes a stock will decline and places a sell order, though that person does not own any of these shares). For examination purposes the examiner is defining the limitation "actual rights holder" to be either the seller or buyer of the transacted security. For examination purposes the examiner is defining the limitation "broker house identifier" to be the any method or unit which allows identification of any broker and/ brokerage involved in the buy/sell securities transaction. For examination purposes the examiner is defining the limitation "modification of trade data" to be any data change with respect to the trade data.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-29 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,408,282 B1 by Buist (Bu).

In reference to Claim 22:

(new) A securities system comprising: a market system where the rights holders directly exchange the securities being traded having a pooling means for pooling securities ((Bu) FIG. 10, Col 14 lines 3-6, Col 34 lines 35-36), for the short selling of securities having means for pooling securities for the short selling of securities with an order book ((Bu) Col 10 lines 2-6) has the actual rights holder ((Bu) Col 10 lines 43-45), broker identifier and the broker house identifier ((Bu) Col 1 lines 55-67, Col 2 lines 1-5, Col 3 lines 5-15, Col 10 lines 2-6) and having means for monitoring the modification of trade data in respective trade records ((Bu) Col 6 lines 29-35, 38-43).

In reference to Claim 23:

(new) A system according to claim 22 (see rejection of claim 22 above) in which a broker acts as an agent for a rights holder Col 1 lines 45-67, Col 2 lines 1-2, Col 6 lines 29-35).

In reference to Claim 24:

(new) A system according to claim 22 (see rejection of claim 22 above) in which said system is a data processing system ((Bu) FIG. 1, Col 6 lines 49-54).

In reference to Claim 25:

(new) A system according to claim 24 (see rejection of claim 24 above) in which said system is processed in a client server system ((Bu) FIG 1; Abstract lines 16-17, Col 6 lines 30-35).

In reference to Claim 26:

(new) A system according to claim 24 in which said system is connected to through the Internet ((Bu) FIG. 1, FIG. 2; Abstract lines 2-3, Col 1 lines 9-11, Col 6 lines 27-29).

In reference to Claim 27:

(new) A system according to claim 24, further comprising: (a) computer processor means for processing data ((Bu) Col 6 lines 32-33, Col 7 lines 14-20()); (b) storage means for storing said data on a storage medium ((Bu) Col 6 lines 50-52, Col 7 lines 32-35) ; (c) communication means for transmitting data in a secure environment to and from various remote locations ((Bu) FIG. 1; Col 6 lines 66-67, Col 7 lines 4-10, Col 8 lines 6-16); and (d) computer software means for creating and displaying trade data concerning a particular trade in the form of a trade record ((Bu) Col 11 lines 30-35, 55-67, Col 12 lines 1-3).

In reference to Claim 28:

(new) A system, as claimed in claim 22 (see rejection of claim 22 above), wherein said computer software means further comprises: means for inputting and storing system information on said storage means ((Bu) Col 7 lines 21-42).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,408,282 B1 by Buist (Bu) as applied to claim 22 above, and further in view of US Patent No. 6014643 by Minton (Min).

In reference to Claim 29:

Bu teaches:

(new) A system according to claim 22 (see rejection of claim 22 above), further comprising:...

Bu does not teach:

... having rights holders directly exchange the securities being traded

Min teaches:

... having rights holders directly exchange the securities being traded ((Min) col 1 lines 10-13, Col 2 lines 46-49, 62-65).

Both Bu and Min are directed explicitly to market order book and user to user interaction. Min teaches individual traders initiating trade directly or indirectly and that in a system that requires these individuals to trade through brokers adds additional expense to the transaction. Minton teaches a need for a system where individuals can sell to one another. Bu teaches a broker/dealer system where users can trade among themselves 24 hours per day and that users can subscribe to a securities trading service. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include in the teachings of Bu the teaching of Minton for non broker users to utilize the broker/dealer system in order to reduce trading cost.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pub No. 2002/0128947 A1 by Sauter et al. is cited for teaching issuing multiple classes of shares for compositing mutual funds or unit investment trust funds. US Pub No. 2003/0093343 A1 by Huttenlocher et al. for teaching the buying and selling of mutual funds. US Pub No. 2003/0014351 A1 by Neff et al. is cited for teaching a market order book for mutual funds and short selling. US Pub No. 2003/0009411 A1 by Ram et al. is cited for teaching a market order book for trading securities including pooled funds and short selling of funds in order to stay ahead as the market declines.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY GREGG whose telephone number is (571)270-5050. The examiner can normally be reached on 4/10.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 5712726712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MMG

/Mary Cheung/

Primary Examiner, Art Unit 3694